

**Code of Ethics for the  
Board of Commissioners of  
Rowan County, North Carolina**

**PREAMBLE**

**WHEREAS**, the Constitution of North Carolina, Article I, Section 35, reminds us that a “frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty,” and

**WHEREAS**, a spirit of honesty and forthrightness is reflected in North Carolina’s state motto, *Esse quam videri*, “To be rather than to seem,” and

**WHEREAS**, Section 160A-86 of the North Carolina General Statutes requires local governing boards to adopt a code of ethics, and

**WHEREAS**, as public officials we are charged with upholding the trust of the citizens of Rowan County, and with obeying the law.

**NOW THEREFORE, BE IT RESOLVED** in recognition of our blessings and obligations as citizens of the State of North Carolina and as public officials representing the citizens of the County of Rowan, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we the Rowan County Board of Commissioners do hereby adopt the following General Principles and Code of Ethics to guide the Rowan County Board of Commissioners in its lawful decision-making.

## **GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS**

- The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.
- Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
- Board members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.
- Board members must always remain aware that at various times they play different roles:
  - As advocates, who strive to advance the legitimate needs of their citizens
  - As legislators, who balance the public interest and private rights in considering and enacting ordinances, orders, and resolutions
  - As decision-makers, who arrive at fair and impartial quasi-judicial and administrative determinations.
- Board members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.
- Board members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

## CODE OF ETHICS

The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for the Rowan County Board of Commissioners and to help determine what conduct is appropriate for particular cases. It should not be considered a substitute for the law or for a board member's best judgment.

**Section 1.** Board members should obey all laws applicable to their official actions as members of the board. Board members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, board members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. To declare that a board member is behaving unethically because one disagrees with that board member on a question of policy (and not because of the board member's behavior) is unfair, dishonest, irresponsible, and itself unethical.

Board members should endeavor to keep up to date, through the board's attorney and other sources, about the most pertinent constitutional, statutory, and other legal requirements with which they must be familiar to meet their legal responsibilities. The board should consider adopting a list of applicable laws and regulations, with appropriate commentary, as a reference document accompanying this Code.

**Section 2.** Board members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values
- Behaving consistently and with respect toward everyone with whom they interact
- Exhibiting trustworthiness
- Living as if they are on duty as elected officials regardless of where they are or what they are doing
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner

- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others
- Disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves
- Treating other board members and the public with respect and honoring the opinions of others even when the board members disagree with those opinions
- Not reaching conclusions on issues until all sides have been heard
- Showing respect for their offices and not behaving in ways that reflect badly on those offices
- Recognizing that they are part of a larger group and acting accordingly
- Recognizing that individual board members are not generally allowed to act on behalf of the board but may only do so if the board specifically authorizes it, and that the board must take official action as a body

**Section 3.a.** Board members should avoid impropriety in the exercise of their official duties.

Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, this board will consider impropriety in terms of whether a reasonable person who is aware of all of the relevant facts and circumstances surrounding the board member's action would conclude that the action was inappropriate.

**Section 3.b.** If a board member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the board's attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

**Section 4.** Board members should faithfully perform the duties of their offices. They should act as especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

Board members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, mindful of the need not to engage

in communications outside the meeting in quasi-judicial matters. They should demand full accountability from those over whom the board has authority.

Board members should be willing to bear their fair share of the board's workload. To the extent appropriate, they should be willing to put the board's interests ahead of their own.

**Section 5.** Board members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to the board members or their employees.

In order to ensure strict compliance with the laws concerning openness, board members should make clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the board are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

### **Censure of Board Members**

**Censure Procedures.** If a majority of the board has reason to believe that one of its members has violated a provision of this Code of Ethics, it may open an investigation into the matter to determine whether probable cause exists to initiate censure proceedings against the member. All information compiled, including the grounds for any finding of probable cause, shall be shared with the member when it is received. All information pertaining to the case shall be open to public inspection and copying pursuant to the North Carolina public records statutes. If upon investigation, the board concludes that a violation of a criminal law may have occurred, it shall refer the matter to the local district attorney.

Should the board determine that it wishes to proceed further with censure proceedings, it shall call for a hearing, to be held at a regular meeting or at a special meeting convened for that purpose. Notice of the hearing stating its time, place and purpose shall be given once a week

for two successive calendar weeks in a newspaper having general circulation in the jurisdiction. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included. Alternatively, the hearing shall be advertised on the jurisdiction's website for the same period of time, up to and including the date of the hearing. The notice shall state that a detailed list of the allegations against the member is available for public inspection and copying in the office of the clerk to the board.

The hearing shall be convened at the time and place specified. The hearing and any deliberations shall be conducted in open session in accordance with the North Carolina open meetings statutes.

The accused board member shall have the right to have counsel present, to present and cross-examine expert and other witnesses, and to offer evidence, including evidence of the bias of any other board member or the presiding officer. An audio or video and audio tape of the proceedings shall be prepared. Any and all votes during the hearing shall be taken by the ayes and noes and recording in the board's minutes.

Once the hearing is concluded, it shall be closed by vote of the board. The presiding officer shall next entertain a motion to adopt a nonbinding resolution censuring the member based on specified violations of the Code of Ethics. Any motion made must be an affirmative one in favor of adopting a nonbinding resolution of censure. If the motion or resolution does not state particular grounds for censure under the Code of Ethics, the presiding officer shall rule it out of order.

If a motion to adopt a nonbinding resolution of censure stating particular grounds under the Code of Ethics has been made, the board shall debate the motion. The accused member shall be allowed to participate in the debate and shall also be allowed to vote on the motion to adopt the resolution.

At the conclusion of the debate, the board shall vote on the resolution. If the motion to adopt the nonbinding resolution of censure is approved by a majority vote of those present and voting, a quorum being present, the motion passes and the nonbinding resolution of censure is adopted.

The text of the nonbinding resolution of censure shall be made a part of the minutes of the board. Any recording of the board's proceedings shall be approved by the board as a permanent part of the minutes. The proceedings shall then be considered concluded, the board having done all it legally can with respect to the matter in question.

**Guidelines for Ethical Behavior.** As noted in various points in the Model Code of Ethics, local governing boards have no legal power to bring criminal or other charges against their members or otherwise to directly control one another's behavior. At the same time, board members should be familiar with laws that may affect them in their actions as public officials, and they should take care to avoid common pitfalls. For example, some boards have found it useful in avoiding legal conflicts of interest to start each meeting by asking members to voluntarily inform the board if any matter on the agenda might present a conflict of interest or might require the member to be excused from voting.

The following guidelines are designed to translate current legal requirements into specific behaviors board members should avoid. While statutory provisions should be viewed as a minimum standard, board members should always consider whether there are ethical problems with other behaviors, even if such behavior does not violate criminal or other statutes dealing with conflicts of interest or other subjects.

- 1. Avoid deriving a direct benefit from contracts in which you are involved in making or administering on behalf of the public agency.** (G.S. 14-234(a)(1); criminal penalty; note defined terms in the statute: *direct benefit, involved in making or administering contract.*)
- 2. Avoid attempting to influence others involved in making or administering a contract on behalf of the public agency, even if you aren't involved, if you will derive a direct benefit from the contract.** (G.S. 14-234 (a)(2); criminal penalty; note defined terms in the statute: *direct benefit, involved in making or administering a contract.*)
- 3. Avoid soliciting or receiving any gift or reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency you serve.** (G.S. 14-234(a)(3); criminal penalty.)

4. **Consider the ethical and practical consequences of deriving a direct benefit from a contract authorized under any exception to the statute and weigh these considerations against the potential advantage to the public agency and to yourself. Follow reporting requirements to ensure transparency. (G.S.14-234(b); (d1).)**
5. **Avoid participating in deliberation about or voting on a contract in which you have a direct benefit, when the contract is undertaken as allowed under any exception to the statute. (G.S 14-234(b1); criminal penalty.)**
6. **Avoid using your knowledge of contemplated action by you or your unit, or information known to you in your official capacity and not made public, to acquire a financial interest in any property, transaction, or enterprise, or to gain a financial benefit that may be affected by the information or contemplated action. Avoid intentionally aiding another to do any of these things. (G.S. 14-234.1; criminal penalty.)**
7. **Avoid receiving any gift or favor from a current, past, or potential contractor. (G.S. 133-32(a); criminal penalty.)**
8. **Consider the ethical and practical consequences of accepting a gift or favor under any exception to the statutory prohibition, and follow reporting requirements to ensure transparency. (G.S. 133-32(d).)**
9. **Avoid voting on matters involving your own financial interest or official conduct. (G.S. 160A-75; 153A-44.) Identify and disclose these matters in advance so your board can determine whether you have a conflict allowing you to be excused by the board from voting. When in doubt, obtain an opinion from your local attorney about whether you must vote or may be excused.**
10. **Avoid voting on any zoning map or text amendment where the outcome of the vote is reasonably likely to have direct, substantial, and readily identifiable financial impact on you. (G.S. 153A-340(g); G.S. 160A-381(d).)**
11. **Do not participate in or vote on any quasi-judicial matter, including matters that come before the board when the board is acting in a quasi-judicial capacity under G.S. 153A-345 or G.S. 160A-388, if participation would violate affected persons' constitutional right to an impartial decision-maker. Impermissible conflicts under this statutory**

standard include “having a fixed opinion prior to hearing the matter that is not susceptible to change”; “undisclosed ex parte communications [communications between a board member and someone involved in the matter that occur outside the official quasi-judicial proceeding]”; “a close familial, business, or other associational relationship with an affected person”; or “a financial interest in the outcome of the matter.”

12. Fulfill your statutory obligation to vote on all matters that come before you even when there are appearances of conflict, and only refrain from voting when there is a legal basis for being or a requirement to be excused from voting. (G.S. 153A-44; G.S. 160A-75.)

| Adopted this 7<sup>th</sup> day of September 2010.  
Amended this 20<sup>th</sup> day of September 2010.

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Carl Ford, Chairman  
Rowan County Board of Commissioners

ATTEST:

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Carolyn Athey, CMC, NCCCC  
Clerk to the Board /  
Assistant to the County Manager

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I hereby acknowledge as a member of the Rowan County Board of Commissioners that I have received and reviewed a copy of the Code of Ethics for the Board of Commissioners of Rowan County, North Carolina in accordance with North Carolina General Statute § 160A-86.

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Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name